

Notice of Allowability

Application No.

10/783,544

Examiner

Benjamin H. Layno

Applicant(s)

MITCHELL, TYRONE EMMITT

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview on 09/02/04.
2. ☒ The allowed claim(s) is/are 1.
3. ☒ The drawings filed on 20 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>090204</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>090204</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Tyrone Emmitt Mitchell on 09/02/04.

The application has been amended as follows:

Claim 2 has been cancelled.

2. The following is an examiner's statement of reasons for allowance:
3. The patent to Scott et al. discloses a method of playing a poker game wherein each player and the dealer are dealt five cards. Two community cards are dealt to the center of the table and are used by both the player hand and the dealer hand. The player's best five card hand is compared to the dealer's best five card hand
4. The patent to Malcolm, cited by the Applicant, discloses a method of playing a poker game wherein each player is dealt five cards, and two common cards are dealt face down. The players decide whether to use the two common cards to form seven card hands by placing an additional wager.
5. The patent to Zoccolillo et al. discloses a method of playing a wagering card game wherein each player is dealt a hand of cards, and two community cards are dealt. A player may use the two community cards if an additional bet was made. The players will be paid out based upon the ranking of their card hand and whether common cards

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were used to assist in the ranking of the card hand. The use of common cards increase the likelihood of obtaining a winning type combination, and the payout for any such winning type combination is appropriately reduced, see col. 6, line 36 to col. 7 line 9.

6. None of the cited references alone or in combination teach the steps of the specific use of the first common card and the second common card, and how it affects the bet resolving payouts as claimed as follows: “(Q) Player having placed said draw bet and having a higher ranked poker hand than said dealer’s ranked poker hand, and does not include the use of said second common card with said player’s ranked poker hand to have said poker hand rank, is entitled to bet resolving payout of one part for every one part wagered by said player on said player’s initial bet and draw bet from the dealer, (R) Player having placed said draw bet, having a higher ranked poker hand than said dealer’s ranked poker hand, and having to use said second common card within said player’s ranked poker hand to have said poker hand rank, is entitled to a bet resolving payout of one part for every two parts wagered by said player on said player’s initial bet and draw bet from said dealer, (S) Player having placed said draw bet, having a higher ranked poker hand than said dealer’s ranked poker hand, and having to use neither said first common card and said second common card within said player’s ranked poker hand to have said poker hand rank, is entitled to bet resolving payout of one part for every one part wagered by said player on said player’s initial bet and draw bet from said dealer”.

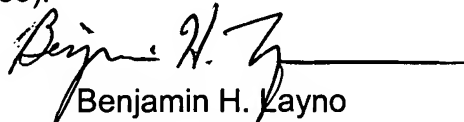
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl